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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,633	10/24/2003	Michel J. Vermoesen	DP-309738/DP-309739	8613

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DELPHI TECHNOLOGIES, INC.  
M/C 480-410-202  
PO BOX 5052  
TROY, MI 48007

EXAMINER
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LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/692,633

Applicant(s)

VERMOESEN ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 1 and 23-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

Claim 1 is objected to because of the following informalities: Line 8, "a first" should be -the first--, Line 9, "an integral" should be --the integral--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 8-13, and 14-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "generally" in claims 2, 8, 14, and 18 is a relative term which renders the claims indefinite. The term "generally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The degree to which the plate is annular is rendered indefinite.

Regarding claims 2, 8, 14, and 18, the phrase "adapted for" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In reference to claims 2, 8, and 14, the limitations introduced after the "adapted for" statement are reintroduced in the following claim, where it appears they are actually being claimed for the first time. In reference to claim 18, the

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limitations introduced after the “adapted for” statement are reintroduced in the following lines, where it appears they are actually being claimed for the first time

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 5, 14, 16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinohara.

Shinohara discloses a power piston apparatus, for a vacuum booster including a booster housing, having a booster power piston (10) including an annular groove (10c), a first diaphragm support (6) having a central hole, and an integral locking collar (13) for locking engagement with the annular groove. The first diaphragm support further includes an imperforate annular plate,

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and a first seal (7) seals the juncture between the first diaphragm support and the booster housing. Wherein the locking collar includes one or more spring tangs (13a). Shinohara further teaches a method for constructing a vacuum booster including attaching a first diaphragm support to the power piston by sliding the power piston through a central hole in the first diaphragm support and engaging the spring action locking collar of the first diaphragm support with an annular groove in the power piston.

Note: Recitation of the first diaphragm support and the integral locking collar as a unitary structure would overcome rejections to claims 1 and 14.

Claims 1-3, 6, 7, 14, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hewitt et al.

Hewitt et al. discloses a power piston apparatus, for a vacuum booster including a booster housing, having a booster power piston including an annular groove (108), a first diaphragm support (38) having a central hole, and an integral locking collar (202) for locking engagement with the annular groove. The first diaphragm support further includes an imperforate annular plate, and a first seal (36) seals the juncture between the first diaphragm support and the booster housing. Further including a diaphragm support seal (40) in the annular groove of the power piston retained by the locking collar.

#### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,979,426, 5,086,690, 5,226,291, 4,423,665, and 3,661,054 each disclose a vacuum booster with a power piston apparatus.

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***Allowable Subject Matter***

Claims 4, 8-13, 15, and 18-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML

December 20, 2004

  
Michael Leslie  
Patent Examiner  
AU 3745

  
EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
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12/23/04